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90-7-1-47

*Washington, D.C. 20530*

December 15, 1982

Robert B. Schaefer, Esquire
Regional Counsel
United States Environmental
Protection Agency
Region III, 16th Floor
230 South Dearborn Street
Chicago, Illinois 60604

Dear Mr. Schaefer:

Re: U.S. v. Chemical Recovery Systems, Inc.

Enclosed is a proposed settlement offer submitted by the principal defendant (CRS) in this case. The complaint, alleging violations of Sections 7003 of RCRA and 301(a) of CWA, was filed on October 7, 1980. There were two principal areas of concern at the time the complaint was filed. The first was the threat of fire and explosion posed by the presence of some 4000 drums of waste chemicals on the site and certain defective distillation units. The second was a leachate stream containing PCBs which was running down the bank and entering the Black River. A boom in the river isolated some contaminants including PCBs and organic chemicals.

The site is located on a filled area on a peninsula-like body of land bounded on three sides by the Black River. There is some organic chemical contamination of the shallow underlying aquifer and a city storm sewer which runs under the property appears to provide a pathway for some chemicals which are entering the Black River. (More precise descriptions of the identities, natures and concentrations of chemicals in the groundwater and the Black River can be provided by Leon Acierto or Mike Kosakowski).

Since the filing of the complaint, CRS has removed all drummed wastes as well as the stills and buildings and has removed a sump which was the source of the leachate stream containing the PCBs. The boom in the river is also gone and

there are no measurable levels of PCBs in the river. Accordingly, the major objectives of the complaint have been achieved. On the other hand, the aquifer remains contaminated and chemicals are still entering the river at the storm sewer outfall.

It should be noted that the aquifer is not now and is unlikely ever to be a drinking water source. It may or may not purge itself over time into the Black River. The river is not a drinking water source either and ambient levels of chemical contaminants would pose no environmental hazard. The company does not have the resources to pump and filter the groundwater.

CRS refuses to attempt remedial measures concerning the storm sewer. It claims that a recent photographic study of the sewer by the city shows the sewer to be intact. Whether contaminants are actually entering the sewer line or moving parallel to it is unclear. The photographic study would not resolve this and it is probably unimportant. CRS claims that it could not afford to excavate and undertake any remedies and that the sewer belongs to the city in any event. It will bring the city into the suit if we insist on remedies to the storm sewer.

According to the attached proposal, CRS will excavate a "two foot by one foot" perimeter around the foundation of the Brighten still foundation and will grade, slope and seed the entire site. Kathy Sutula believes, and I agree, that this is not their bottom line offer. They would probably, for example, excavate other visible hot spots and they may have some flexibility on the piezometer wells if EPA really believes them to be necessary. We might alternatively propose to them some river monitoring.

Their proposal to slope and seed the site may be more environmentally desireable than a clay cap. Some infiltration from rain and snow melt might help to purge the aquifer. The discharge at the storm sewer outfall is a technical violation of CWA in that there is no NPDES permit; although it is, perhaps, debatable whether CRS, or the City of Elyria might be the appropriate permittee. In any event, this discharge is not "an imminent and substantial endangerment" and may be alleviated to some extent by the sloping and seeding. Standing by itself, it should not be allowed to prolong this lawsuit which has been on file for more than two years.

Please advise us as to Region's position on CRS' offer, any counter proposals and Region's position generally as to its preferences with respect to the provisions of any consent decree.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:

Paul J. Schaeffer
Environmental Enforcement Section

Enclosure

cc: Bill Konstantelos
Leon Acierto
Marion Neudel ✓
Michael Kosakowski
Fred Stiehl
Kathy Sutula

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September 21, 1982

Kathleen Ann Sutula, Esq.
Assistant U. S. Attorney
United States Department of Justice
1404 E. Ninth St.
Suite 500
Cleveland, Ohio 44004

Re: United States of America vs.
Chemical Recovery Systems, Inc., et al.

Dear Ms. Sutula:

Please accept my apologies for taking so long in responding to you since our discussion; a number of unforeseen delays occurred.

By way of settlement, Chemical Recovery Systems proposes the following:

(1) CRS is willing to grade the entire site sloping same gently toward the river and seed the surface with grass in conformance with the attached suggestions by KECK Consulting Services, Inc.

(2) In the area of the "Brighton Still" CRS will remove the top foot of soil around the perimeter of the building foundation to a distance of two feet from the foundation, dispose of of the removed soil in an approved waste disposal site and either grade or backfill the area to conform with the terrain.

(3) CRS will not agree to sealing the existing sewer drain pipe on the premises due to the fact that the interior of same has been photographed by the City and appears to be sound. With the permission of the City of Elyria, these photographs will be produced. I have placed the City of Elyria on notice, by way of a letter to the City Solicitor, that if the matter of the sewer becomes an issue then I will have no choice but to join the City as a Party Defendent.

(4) CRS will not drill and monitor "Piezometer holes" on the property as requested by the EPA. Upon reviewing this request with its consulting engineering firm, using the limited information available, CRS is informed that, depending upon the objectives to be accomplished, either the borings already made by the EPA on the premises will be sufficient, or "Piezometer holes" off the premises would be required, which of course CRS cannot agree to. Perhaps some further clarification is necessary.

After you have discussed this proposal with EPA, please let me know whether or not you think settlement is possible.

Thanking you for your ongoing cooperation and consideration, I am

Very truly yours,

David C. Long

DCL:cas

cc: Mr. James C. Freeman
Mr. Peter Shagena
Mr. Joseph Heimbuch
Gary McInerney, Esq.
Richard Stevens, Esq.

KECK consulting services, inc.

1099 W. GRAND RIVER • WILLIAMSTON, MI 48895 • (517) 655-4391

July 23, 1982

Mr. Peter Shagena
Chemical Recovery Systems, Inc.
36345 Van Born Road
Romulus, Michigan 48174

Dear Pete:

Enclosed is the write-up you requested regarding the vegetative cover at your Ohio site. I hope it meets your requirements.

Let us know if we can be of further assistance.

Very truly yours,

KECK CONSULTING SERVICES, INC.

Joe

Joseph W. Sheahan
Hydrogeologist/Project Manager

JWS/dpg
Encl.

## Chemical Recovery

RECYCLING

The final covering of ~~waste disposal~~ areas is frequently accomplished by grading and seeding. These measures are taken to minimize soil erosion, promote effective removal of precipitation and encourge rejuvenation of the area to a natural and aesthetically appealing state.

The selection of a proper plant cover must take into account all of these requirements. It must first possess resistance to the enviromental characteristics of the area and be able to survive on the available precipitation without supplemental water application. Secondly it must possess an extensive yet shallow root structure that will bind together the soil and reduce infiltration without penetrating the waste disposal area. As a final requirement, it must be easily maintained and be aesthetically compatible with the surrounding landscape and environemnt.

Several common grasses will fulfill these requirements in most areas. Commonly fescue grasses (genus Festuca) provide a suitable cover. The variety selected might also take into account the height that is desired upon full growth. Also suitable might be one of the several bluegrasses (genus Poa) including the well known Kentucky bluegrass (Poa pratensis). Any of the numerous bromegrasses (genus Bromus) could prove satisfactory.

Final selection of a suitable cover can best be accomplished by a horticulturist familiar with the precipitation and soil characteristics of the site following construction of the cap.